

CHAPTER 1 - NCLB REQUIREMENTS

Implementing NCLB in South Dakota

SD did not have a statewide school and district accountability system that encompassed all students. During the 2003 Legislative session, statutory changes were made to implement a single statewide accountability system. The statutory changes can be found in SDCL 13-3-62 to 13-3-69. The statutory changes put in place the necessary framework to implement the various mandates of the NCLB Act. In addition, administrative rules were promulgated (ARSD 24-42) to further implement the various requirements. While all schools are included in the accountability system, only schools that receive Title I funding are subject to the improvement requirements and sanctions of NCLB.

Each NCLB requirement along with what SD has done or will be doing to comply with these requirements is laid out in detail in the South Dakota Department of Education State Application Accountability Workbook, dated August 7, 2004. This document can be found at http://www.state.sd.us/deca/NCLB/word/Workbook_9_3_04.doc. Please refer to this document for greater detail on the specifics on any particular area or requirement.

The State's assessment tool is the Dakota STEP examination. Harcourt Educational Measurement (now known as Harcourt Assessments) is the company that creates, publishes, and sells the SAT tests. The Harcourt's SAT10 test was augmented with additional questions aligned with the core content standards of SD in reading and math to create what is the Dakota STEP test. The State of South Dakota contracted with Harcourt to use the SAT10/Dakota Step as our assessment tool. The Dakota STEP is administered to every student enrolled in grades 3-8 and 11. An alternate assessment is available for students with disabilities whose IEP (Individual Education Plan) so specifies.

Harcourt developed the tests, publishes, mails, scores and sends results via a compact disc to the South Dakota Department of Education (SDDOE). The SDDOE uploads the data into the Student Information Management System (SIMS). A software program developed by School Extra (now known as Infinite Campus), that incorporated the State's Adequate Yearly Progress (AYP) decision rule calculations for each applicable area, then calculates and generates the report cards following the parameters established in the approved South Dakota Accountability Plan. These report cards are available on the SDDOE website.

The SD assessment system has been approved by the USDOE. It took over 3 years to obtain such approval. The Dakota STEP underwent an alignment process conducted by the Buros Institute of the University of Nebraska – Lincoln to assure the assessment would accurately measure achievement of the students based on the core academic standards established for each grade in reading and math.

All public schools and districts are accountable for the performance of student subgroups. Subgroups include major racial/ethnic subgroups, students with disabilities, limited English proficient students, and economically disadvantaged students. SD uses current census definitions for major racial/ethnic groups: White, Black, Asian/Pacific, Hispanic, and Native American. Students with free and reduced lunch status are the basis for determining the subgroup of economically disadvantaged status. Students who score less than proficient on the Limited English Proficiency state test are assigned to the LEP subgroup. Students qualifying for an IEP are categorized in the students with disabilities subgroup.

Definitions of achievement levels have been expressed through performance descriptors. The State of SD has defined four levels of student achievement: advanced, proficient, basic, and

below basic. Cut scores for proficiency levels were established in the summer of 2003. The Burros Institute, University of Lincoln, Nebraska, conducted a standards setting process with the SDDOE in establishing achievement levels for reading and math, grades 3-8 and 11.

The State disaggregates test data for all public schools to report the progress of student subgroups and to determine whether or not each subgroup has met or exceeded the State's annual measurable objectives (AMO). AMO's are expressed as a percentage of children in the subgroup that are at the advanced or proficient level in a subject area.

Annual measurable objectives for each grade span and subject area:

	K-8		9-12	
School Year	Reading	Math	Reading	Math
2002-2003	65%	45%	50%	60%
2003-2004	65%	45%	50%	60%
2004-2005	71%	54%	58%	67%
2005-2006	71%	54%	58%	67%
2006-2007	71%	54%	58%	67%
2007-2008	77%	63%	67%	73%
2008-2009	77%	63%	67%	73%
2009-2010	77%	63%	67%	73%
2010-2011	83%	73%	75%	80%
2011-2012	88%	82%	83%	87%
2012-2013	94%	91%	92%	93%
2013-2014	100%	100%	100%	100%

Intermediate goals were established that required schools to increase their minimum performance from the starting point to 100% in five equal intervals, with each increase occurring no more than three years apart. SD will increase the first intermediate goal in 2004-2005, then in 2007-08, 2010-11, 2011-12, 2012-13, and 2013-2014.

Intermediate Goals:

	K-8		9-12	
School Year	Reading	Math	Reading	Math
2002-2003	65%	45%	50%	60%
2004-2005	71%	54%	58%	67%
2007-2008	77%	63%	67%	73%
2010-2011	83%	73%	75%	80%
2011-2012	88%	82%	83%	87%
2012-2013	94%	91%	92%	93%
2013-2014	100%	100%	100%	100%

Schools, districts and the state must meet Adequate Yearly Progress (AYP) in reading and math for each subgroup and overall unlike in the past. Also, AYP for another academic indicator (attendance, or graduation rate and participation) now must also be determined for each school. A school / district and each student group will be declared as having met AYP if its performance meets the applicable Annual Measurable Objective (AMO), meets the AMO with a confidence interval, meets the AMO using a 2-year average, or (Safe Harbor) demonstrates substantial

improvement consistent with NCLB provisions **and** meets or exceeds a participation rate of at least 95%. The table below shows the 37 categories that each school can be evaluated on to determine whether or not it made AYP.

Table 2.2: Components of “Adequate Yearly Progress”

To make “adequate yearly progress” (AYP) under NCLB, students in each school and school district must meet or exceed standards in each of the following applicable categories (marked “X”)									
Criteria for AYP Determination	NCLB Subgroup								
	All Students	White Students	Black Students	American Indian Students	Asian Students	Hispanic Students	Limited-English Students	Special Education Students	Low Income Students ^a
Reading proficiency	X	X	X	X	X	X	X	X	X
Reading participation	X	X	X	X	X	X	X	X	X
Math proficiency	X	X	X	X	X	X	X	X	X
Math participation	X	X	X	X	X	X	X	X	X
Attendance or graduation rate ^b	X								

NOTE: For each of the 36 categories related to test proficiency or participation, adequate yearly progress is computed for the school or school district on the basis of test data aggregated across those grades for which tests are given. For measures of proficiency, AYP determinations are not made for subgroups with fewer than 10 students. For measures of participation, AYP determinations are not made for subgroups with fewer than 10 students.

^a Low income students are defined as those from families eligible for free or reduced-price meals.

^b Elementary and middle schools are held accountable for their attendance rates, while high schools are held accountable for their graduation rates.

SOURCE: South Dakota Department of Education, South Dakota Consolidated State Application Accountability Workbook(Pierre, SD: August 27, 2004).

For accountability purposes, the state elected to use a minimum n of 10 students for all subgroups and a confidence interval. The overall confidence interval of $p = .01$ is applied to the available status score data (i.e., most recent single year or average of two years) to evaluate whether a school has failed to make AYP. The state uses a minimum size (n) of 10 for all subgroups to enable the state’s reports to maintain individual student confidentiality, in accordance with federal Family Educational Rights and Privacy Act (FERPA) privacy requirements. The impacts of the confidence interval and the minimum n size will be discussed in greater detail later in this section of the report.

The NCLB has an authorized “Safe Harbor” provision. If in any particular year the school, district, or student group does not meet the AMO, the school, district, or student group may be considered to have made AYP if the percentage of students in that group who did not meet or exceed the proficient level of academic achievement on the State assessments for that year decreased by 10% of that percentage from the preceding public school year; that group made progress on one or more of the State’s other academic indicators (graduation and/or attendance rate); and that group had at least 95% participation rate on the statewide assessment. For example, if a subgroup in the current year didn’t meet the AMO and had 80 out of 100 children below the advance and proficient levels last year, but this year the number below proficient and advanced was only 72 out of 100 children, then the subgroup would be considered to have meet AYP if at least 95% of the children in the subgroup participated in the assessment and progress was made on one or more of the State’s other academic indicators like the attendance rate increased. The percentage of children below proficient in the prior year (80%) decreased by 10% (80% time 10% equals 8%) to 72%, therefore that part of safe harbor was achieved.

The other academic indicators, which apply to each school and the student group of all students within the school, are:

- ? Graduation Rate- A school that includes grade 12 will be expected to meet or exceed the State’s graduation rate of 90% or show progress.
- ? Attendance Rate - A school that does not enroll students in grade 12 shall have an average daily attendance rate that meets or exceeds the state’s minimum attendance rate expectation of 94% or show progress.

Each subgroup in the school must have at least 95% of the students enrolled in the tested grades on the last day of the testing window participate in the state assessments. (Participation Rate) If a subgroup has 40 or fewer students enrolled in the tested grades, then it shall have no more than 2 (two) students not participate in the state assessments.

An LEA's (district) accountability system was exactly the same as the school accountability system for 2003. The district was treated as a single, large school, and scores were calculated for the district exactly the same way as a school's except the other academic indicators of attendance rate and graduation rates did not apply to the district. The SDDOE just completed successful negotiations with the USDOE to amend the way district AYP is determined. AYP for a district is determined on three grade spans: elementary (3-5), middle school (6-8), and high school (9-12). Districts that fail to make AYP for two consecutive years in all three grade spans for the same subject will be identified for improvement status.

All students with disabilities participate in the statewide assessment program either by taking the Dakota STEP with or without accommodations or, for a very small number of students with the most significant cognitive disabilities, by participating in the SD alternate assessment entitled STAARS (Statewide Team-led Alternate Assessment and Reporting System). The number of "proficient" and "advanced" scores based on this alternate achievement standard can not exceed 1.0 percent of all students in the grades tested at the State and district level. Any scores that exceed the percentage limitation and for whom no exception is granted is counted as non-proficient for accountability purposes.

Test scores of students with disabilities who are assessed using the Dakota STEP will be included in the assessment data for the grade in which the student is enrolled for purposes of calculating adequate yearly progress (AYP).

Once AYP decisions are determined relative to school performance, the results (report cards) are available through portals on a web-based reporting system. AYP status and schools in need of improvement are identified. To be identified as a school in need of improvement, the school would have had to fail to make AYP for two or more years in the same content area (math or reading). Also, it takes two consecutive years of making AYP in the same content area to be removed from the list of schools in need of improvement.

SDDOE sends a letter to each district informing them of each school that did not meet AYP. The district then has the responsibility to report the results to each school, all parents and the community.

Report cards include the following data:

1. Information, in the aggregate, on student achievement at each proficiency level on the State academic assessments (disaggregated by race/ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged),.
2. Information that provides a comparison between the actual achievement levels of each student subgroup and the State's annual measurable objectives for each such group of students.
3. The percentage of students not tested (disaggregated by the student subgroups)
4. The most recent 2-year trend in student achievement in each subject area, and for each grade level, for the required assessments.
5. Attendance rates for elementary school students for the school as a whole and disaggregated by student subgroups.
6. Graduation rates for secondary school students disaggregated by student subgroups.

7. Information on the performance of local educational agencies in the State regarding making adequate yearly progress, including the number and names of each school identified for school improvement.
8. The professional qualifications of teachers in the State, the percentage of such teachers teaching with emergency or provisional credentials, and the percentage of classes in the State not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools which (for this purpose) means schools in the top quartile of poverty and the bottom quartile of poverty in the State.

If a subgroup of students is less than 10, (n size), the information is not required to be disaggregated and reported.

As mentioned earlier, only those schools that receive Title I funding are subject to school improvement and sanction under NCLB. Prior to NCLB, schools that failed to make AYP for two or more consecutive years were required to prepare improvement plans. There weren't any additional sanctions for persistent failure to make AYP. Under NCLB, a series of increasingly serious consequences are prescribed for underperforming schools or school districts as outlined in the following table.

Table 2.3: NCLB Requirements for Title I Schools Failing to Make Adequate Yearly Progress

<i>Requirement/Sanction</i>	Number of Years That the School Has Failed to Make AYP					
	1	2	3	4	5	6
Improvement plan		X	X	X	X	X
School choice		X	X	X	X	X
Supplemental services			X	X	X	X
Corrective action				X		
Restructuring plan					X	
Implement restructuring						X

- **IMPROVEMENT PLAN:** Must develop (or revise) a school improvement plan.
- **SCHOOL CHOICE:** Must offer school choice options, if possible, to parents of all children in the school failing to make AYP. (Districts are not required to provide school choice if there are no other schools in the district or if all the other schools have failed to make AYP for at least two years.)
- **SUPPLEMENTAL SERVICES:** Must offer supplemental educational services (such as tutoring) outside the school day to eligible children.
- **CORRECTIVE ACTION:** The school district must take at least one of the following actions: (1) replace staff who are relevant to the school's low performance, (2) implement a new curriculum, (3) significantly decrease management authority at the school level, (4) appoint an outside expert to advise the school, (5) extend the school's academic year or lengthen its school day, or (6) change the internal organizational structure of the school.
- **RESTRUCTURING:** In the fifth year of failing to make AYP, the school district must prepare a restructuring plan and arrange to implement it. NCLB outlines various restructuring options, including: (1) reopen the school as a charter school, (2) replace staff who are relevant to the school's low performance, (3) contract with another entity (such as a private management company) to operate the school, (4) turn the operation of the school over to the state department of education, or (5) enter into other major restructuring arrangements. If the school fails to make AYP for a sixth year, the district must implement the plan.

SOURCE: No Child Left Behind Act, §1116.

NCLB also requires that all teachers of core academic subjects be considered “highly qualified” by the end of the 2005-06 school year. In general a “highly qualified teacher” is one with full certification, a bachelor's degree and demonstrated competence in subject knowledge and teaching. Core subjects include English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history and geography. The Act also required paraprofessionals to be highly qualified by January 2006. If a paraprofessional is allowed to provide instructional support, they must have at least an associate's degree or two years of college (a minimum of 48 college credits), or they must meet a rigorous standard of quality through a formal state assessment. If a paraprofessional's role does not involve facilitating instruction--such as serving as a hall monitor--that person does not have to meet the same academic requirements. While NCLB requires teachers and paraprofessionals to be highly qualified by a specified time period, there are no sanctions mandated for a school, an LEA, or a state if these requirements are not met. The percentage of highly qualified teachers teaching core subjects must be determined and reported as part of the report card. For further details on teacher or paraprofessional qualifications see Appendix A and B, respectively.

Comparing to Other States

One of the four basic reform principles identified at the beginning of this section was to provide increased flexibility and local control. This flexibility is clearly evident when you examine the various ways the states have designed their accountability systems to implement NCLB. This flexibility is also what makes comparing one state to another state extremely difficult. The choices that have been made by each state impact the costs incurred, achievement attained and progress towards NCLB goals of each state. States have always had and continue to have at their discretion the determination of their content and achievement standards and the design of their assessments. States also establish proficiency levels based on results of taking the assessments.

Other areas where states have exercised this flexibility are:

- ? States establish what constitutes a subgroup size. Montana and North Dakota set theirs at zero and then use a confidence interval. Maryland uses five as a subgroup size along with a confidence interval. Virginia uses 50 as their subgroup size. Some states set a different subgroup size for special education children than what is used for non special education children subgroups.
- ? Some states use a confidence interval while others do not. SD and Arizona use 99%, Maine uses 95%, Iowa uses 90%, and Minnesota uses a sliding scale of 95-99%.
- ? States establish AMOs and the timelines to achieve intermediate goals. Some states are more aggressive in the second half of the timeframe like SD, Texas and Ohio, while others spread the achievement out in equal annual increases like Washington, and yet others have an increase in 2005 and then another in 2007 and then an annual increase until 2014, like Illinois.
- ? States establish the starting points and AMOs for each grade span and these can be different for each grade span.
- ? States have flexibility in determining how many years of data to use in determining AYP. SD, Alabama and Tennessee are examples of states that use a uniform averaging procedure.
- ? States establish what constitutes other academic indicators. SD uses graduation rates and attendance rates but other states can and do use retention rates, achievement scores in writing, achievement scores in science, achievement scores in social studies. In Georgia, schools can pick from a menu of allowable indicators.